HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 364 of 2001
(Old No. 28/1997)

Smt. Suman Lata Naithani …….. Revisionist
Vs.
Sushil Chandra Naithani and State of U.P. …….Respondents

Hon'ble Irshad Hussain, J.

Heard Sri Raman Kumar Shah learned counsel for the revisionist, Sri Rajendra Kotiyal learned counsel for the respondent no.1-husband and Sri Lalit Verma learned A.G.A. and perused the record of the present revision.

This criminal revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') has been preferred against the impugned judgement and order dated 22.11.1996 passed by the then Judge Family Court, Pauri Garhwal in Criminal Misc. Maintenance Case No. 121/1996 under section 125 of the Code.

The revisionist-wife had been denied the maintenance on the finding that she joined a political party and this aspect itself shows that she is able to maintain herself. The learned Judge also gave a finding that the revisionist is leading a purposeful life and further that she is not neglecting her husband. If she joined a political party, it would not mean that she is able to maintain herself and not entitled to claim maintenance from her husband. It is not in dispute that the parties are living separately and the revisionist is not doing service anywhere despite she being an educated lady. The contradictory findings recorded by the learned Judge indicate that his judgment is not based on proper and fair appraisal of the evidence on record and the facts of the case. Considering this, the judgement and order dated 22.11.1996 cannot be said to be just and proper and the same is liable to be set-aside.

The revision is allowed. The judgement and order dated 22.11.1996 passed by the learned Judge, Family Court in criminal misc. maintenance case no. 121/1996 is set aside and the said case is remanded back for decision afresh according to law. The learned Judge, Family

Court, Pauri Garhwal is directed to expedite the proceedings and decide the same, preferably, within a period of three months from the date of receipt of the copy of this order.

(Irshad Hussain, J.)

Dated 31.5.2004

Rawat